

AMENDED IN ASSEMBLY FEBRUARY 15, 2008

AMENDED IN ASSEMBLY FEBRUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 THIRD EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 5

Introduced by Committee on Budget (Laird (Chair), Arambula, Beall, Berg, Brownley, De La Torre, Evans, Feuer, Hayashi, Hernandez, Jones, Krekorian, Mullin, Ruskin, Swanson, and Wolk)

February 4, 2008

~~An act relating to the Budget Act of 2007.~~ *An act to amend Section 95004 of the Government Code, and to amend Sections 4640.6, 4643, 4648.4, 4681.3, 4681.5, 4691.6, 4781.6, and 4783 of, and to add Sections 4681.6, 4689.8, 4691.9, 14041.1, 14105.19, and 14166.245 to, the Welfare and Institutions Code, relating to health, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 5, as amended, Committee on Budget. ~~Budget Act of 2007.~~ *Public health programs.*

Under existing law, the State Department of Developmental Services provides funding for regional centers for the provision or purchase of services and supports to persons with developmental disabilities. Existing law prescribes a specified ratio for regional center service coordinator to consumer, which is in effect until June 30, 2008.

This bill would extend indefinitely the effective date of this ratio.

Existing law provides for the assessment of certain individuals for whom benefits are provided by regional centers. Existing law provides that if assessment is needed, prior to July 1, 2008, the assessment shall

be performed within 120 days following initial intake, and requires that assessments after that date shall be performed within 60 days following intake.

This bill would extend indefinitely the 120-day assessment requirement.

Existing law, with certain exceptions, for the 2007–08 fiscal year, prohibits a regional center from paying any provider of specified services a rate that is greater than the rate that is in effect on July 1, 2007, unless the increase is required by contract between the regional center and the vendor that is in effect on June 30, 2007.

This bill would extend indefinitely this prohibition with respect to the payment of rates in excess of those in effect on June 30, 2008.

Existing law provides that, during the 2007–08 fiscal year, no regional center may approve any service level for a residential service provider.

This bill would extend indefinitely this provision. It would also prohibit, commencing July 1, 2008, a regional center from negotiating rates with residential care providers, except as prescribed.

Existing law requires the State Department of Developmental Services to make payments to providers of supported living services for adults with developmental disabilities. Under existing law, the department, by July 1, 2002, is required to establish, by regulation, an equitable and cost-effective methodology for the determination of supported living costs and a methodology of payment for these providers.

This bill would, commencing July 1, 2008, impose prescribed rate increase restrictions on reimbursement to these service providers and would also prohibit a regional center from negotiating rates with these providers, except as prescribed.

Existing law prohibits, during the 2007–08 fiscal year, the State Department of Developmental Services from establishing any permanent payment rate for a community-based day program or in-home respite care agency that has a temporary payment rate in effect on July 1, 2007, or from making other specified changes or adjustments that would result in a rate increase.

This bill would extend indefinitely this provision, and would apply it to rates in effect June 30, 2008. It would also prohibit a regional center from negotiating rates with these providers, except as prescribed.

Existing law provides that, for the 2007–08 fiscal year only, a regional center shall not expend any purchase of service funds for the startup of any new program unless the expenditure is necessary to protect the consumer's health or safety or because of other extraordinary

circumstances and the department has granted prior written authorization.

This bill would extend indefinitely this prohibition.

Under existing law, the California Early Start Intervention Services Act, various state entities provide coordinated services to infants and toddlers with disabilities and their families. Existing law requires early intervention services to be provided directly to eligible infants and toddlers and their families through the regional center system and the local education system. Existing law requires that, in providing services under the act, regional centers comply with the Lanterman Developmental Disabilities Services Act, and its implementing regulations, including, but not limited to, those provisions relating to vendorization and ratesetting, except where compliance with those provisions would result in any delays in, or any cost to families for, the provision of early intervention, or otherwise conflict with the act or its implementing regulations. Existing law, until July 1, 2009, also contains family cost participation requirements for specified services obtained by regional centers for persons with developmental disabilities.

This bill would extend indefinitely the family cost participation requirements, and would also require that, subject to federal approval, in providing those early intervention services under the Lanterman Developmental Disabilities Services Act, regional centers apply the family cost participation requirements that require families of children receiving early intervention services to contribute a specified amount to the cost of those services based on family size and scaled income levels. It would also revise the family cost participation schedule and the procedures governing how a parent may appeal a decision made by the executive director of a regional center, with respect to the amount of the parents' cost participation.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income persons are provided with a variety of health services.

Existing law contains various provisions governing reimbursement rates for Medi-Cal providers.

This bill would, notwithstanding any other provision of law, and to the extent not otherwise conflicting with federal law, authorize the department to withhold, or direct the medical fiscal intermediary to withhold, payments for providers, as described, for a period of one month for a month ending prior to January 1, 2009.

Existing law creates various health programs, including the Child Health and Disability Prevention Program, the California Children's Services Program, the Genetically Handicapped Person's Program, and specified family planning programs.

This bill would, with certain exceptions, for services rendered under these programs on and after July 1, 2008, require the Director of Health Care Services to reduce provider reimbursement rates by 10%.

The bill would specify that the reductions imposed pursuant to the bill would apply only to the General Fund share of the payment, and only to payments for services from funds appropriated to the department.

Existing law establishes the Medi-Cal Hospital/Uninsured Care Demonstration Project Act, which revises hospital reimbursement methodologies under the Medi-Cal program in order to maximize the use of federal funds consistent with federal Medicaid law and stabilize the distribution of funding for hospitals that provide care to Medi-Cal beneficiaries and uninsured patients. This demonstration project provides for funding, in supplementation of Medi-Cal reimbursement, to various hospitals, including designated public hospitals, nondesignated public hospitals, and private hospitals, as defined in accordance with certain provisions relating to disproportionate share hospitals.

This bill would reduce by 10% payments for inpatient hospital services to acute care hospitals not under selective contracts with the department that are provided on and after July 1, 2008.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 10, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 10, 2008, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute.

~~*This bill would express the intent of the Legislature to make changes relating to the Budget Act of 2007.*~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 95004 of the Government Code, as*
2 *amended by Section 1 of Chapter 171 of the Statutes of 2001, is*
3 *amended to read:*

4 95004. The early intervention services specified in this title
5 shall be provided as follows:

6 (a) Direct services for eligible infants and toddlers and their
7 families shall be provided pursuant to the existing regional center
8 system under the Lanterman Developmental Disabilities Services
9 Act (Division 4.5 (commencing with Section 4500) of the Welfare
10 and Institutions Code) and the existing local education agency
11 system under appropriate sections of Part 30 (commencing with
12 Section 56000) of the Education Code and regulations adopted
13 pursuant thereto, and Part C of the Individuals with Disabilities
14 Education Act (20 U.S.C. Sec. 1431 et seq.).

15 (b) (1) In providing services under this title, regional centers
16 shall comply with the Lanterman Developmental Disabilities
17 Services Act (Division 4.5 (commencing with Section 4500) of
18 the Welfare and Institutions Code, and its implementing regulations
19 (Division 2 (commencing with Section 50201) of Title 17 of the
20 California Code of Regulations) including, but not limited to, those
21 provisions relating to vendorization and ratesetting, *and the Family*
22 *Cost Participation Program*, except where compliance with those
23 provisions would result in any delays in, ~~or any cost to the families~~
24 ~~for~~, the provision of early intervention, or otherwise conflict with
25 this title and the regulations implementing this title (Chapter 2
26 (commencing with Section 52000) of Division 2 of Title 17 of the
27 California Code of Regulations), or Part C of the Individuals with
28 Disabilities Education Act (20 U.S.C. Sec. 1431) et seq., and
29 applicable federal regulations contained in Part 303 (commencing
30 with Section 303.1) of Title 34 of the Code of Federal Regulations.

31 (2) When compliance with this subdivision would result in any
32 delays in the provision of early intervention services ~~or costs to~~
33 ~~families~~ for the provision of any of these services, the department
34 may authorize a regional center to use a special service code that
35 allows immediate procurement of the service.

36 (c) Services shall be provided by family resource centers that
37 provide, but are not limited to, parent-to-parent support,
38 information dissemination and referral, public awareness, family

1 professional collaboration activities, and transition assistance for
2 families.

3 (d) Existing obligations of the state to provide these services at
4 state expense shall not be expanded.

5 (e) It is the intent of the Legislature that services be provided
6 in accordance with Sections 303.124, 303.126, and 303.527 of
7 Title 34 of the Code of Federal Regulations.

8 *SEC. 2. Section 4640.6 of the Welfare and Institutions Code*
9 *is amended to read:*

10 4640.6. (a) In approving regional center contracts, the
11 department shall ensure that regional center staffing patterns
12 demonstrate that direct service coordination are the highest priority.

13 (b) Contracts between the department and regional centers shall
14 require that regional centers implement an emergency response
15 system that ensures that a regional center staff person will respond
16 to a consumer, or individual acting on behalf of a consumer, within
17 two hours of the time an emergency call is placed. This emergency
18 response system shall be operational 24 hours per day, 365 days
19 per year.

20 (c) Contracts between the department and regional centers shall
21 require regional centers to have service coordinator-to-consumer
22 ratios, as follows:

23 (1) An average service coordinator-to-consumer ratio of 1 to
24 62 for all consumers who have not moved from the developmental
25 centers to the community since April 14, 1993. In no case shall a
26 service coordinator for these consumers have an assigned caseload
27 in excess of 79 consumers for more than 60 days.

28 (2) An average service coordinator-to-consumer ratio of 1 to
29 45 for all consumers who have moved from a developmental center
30 to the community since April 14, 1993. In no case shall a service
31 coordinator for these consumers have an assigned caseload in
32 excess of 59 consumers for more than 60 days.

33 (3) Commencing January 1, 2004, ~~to June 30, 2008, inclusive,~~
34 the following coordinator-to-consumer ratios shall apply:

35 (A) All consumers three years of age and younger and for
36 consumers enrolled on the Home and Community-based Services
37 Waiver for persons with developmental disabilities, an average
38 service coordinator-to-consumer ratio of 1 to 62.

39 (B) All consumers who have moved from a developmental
40 center to the community since April 14, 1993, and have lived

1 continuously in the community for at least 12 months, an average
2 service coordinator-to-consumer ratio of 1 to 62.

3 (C) All consumers who have not moved from the developmental
4 centers to the community since April 14, 1993, and who are not
5 described in subparagraph (A), an average service
6 coordinator-to-consumer ratio of 1 to 66.

7 (4) For purposes of paragraph (3), service coordinators may
8 have a mixed caseload of consumers three years of age and
9 younger, consumers enrolled on the Home and Community-based
10 Services Waiver program for persons with developmental
11 disabilities, and other consumers if the overall average caseload
12 is weighted proportionately to ensure that overall regional center
13 average service coordinator-to-consumer ratios as specified in
14 paragraph (3) are met. For purposes of paragraph (3), in no case
15 shall a service coordinator have an assigned caseload in excess of
16 84 for more than 60 days.

17 (d) For purposes of this section, “service coordinator” means a
18 regional center employee whose primary responsibility includes
19 preparing, implementing, and monitoring consumers’ individual
20 program plans, securing and coordinating consumer services and
21 supports, and providing placement and monitoring activities.

22 (e) In order to ensure that caseload ratios are maintained
23 pursuant to this section, each regional center shall provide service
24 coordinator caseload data to the department, annually for each
25 fiscal year. The data shall be submitted in the format, including
26 the content, prescribed by the department. Within 30 days of receipt
27 of data submitted pursuant to this subdivision, the department shall
28 make a summary of the data available to the public upon request.
29 The department shall verify the accuracy of the data when
30 conducting regional center fiscal audits. Data submitted by regional
31 centers pursuant to this subdivision shall:

32 (1) Only include data on service coordinator positions as defined
33 in subdivision (d). Regional centers shall identify the number of
34 positions that perform service coordinator duties on less than a
35 full-time basis. Staffing ratios reported pursuant to this subdivision
36 shall reflect the appropriate proportionality of these staff to
37 consumers served.

38 (2) Be reported separately for service coordinators whose
39 caseload includes any of the following:

1 (A) Consumers who are three years of age and older and who
2 have not moved from the developmental center to the community
3 since April 14, 1993.

4 (B) Consumers who have moved from a developmental center
5 to the community since April 14, 1993.

6 (C) Consumers who are younger than three years of age.

7 (D) Consumers enrolled in the Home and Community-based
8 Services Waiver program.

9 (3) Not include positions that are vacant for more than 60 days
10 or new positions established within 60 days of the reporting month
11 that are still vacant.

12 (4) For purposes of calculating caseload ratios for consumers
13 enrolled in the Home- and Community-based Services Waiver
14 program, vacancies shall not be included in the calculations.

15 (f) The department shall provide technical assistance and require
16 a plan of correction for any regional center that, for two consecutive
17 reporting periods, fails to maintain service coordinator caseload
18 ratios required by this section or otherwise demonstrates an
19 inability to maintain appropriate staffing patterns pursuant to this
20 section. Plans of correction shall be developed following input
21 from the local area board, local organizations representing
22 consumers, family members, regional center employees, including
23 recognized labor organizations, and service providers, and other
24 interested parties.

25 (g) Contracts between the department and regional center shall
26 require the regional center to have, or contract for, all of the
27 following areas:

28 (1) Criminal justice expertise to assist the regional center in
29 providing services and support to consumers involved in the
30 criminal justice system as a victim, defendant, inmate, or parolee.

31 (2) Special education expertise to assist the regional center in
32 providing advocacy and support to families seeking appropriate
33 educational services from a school district.

34 (3) Family support expertise to assist the regional center in
35 maximizing the effectiveness of support and services provided to
36 families.

37 (4) Housing expertise to assist the regional center in accessing
38 affordable housing for consumers in independent or supportive
39 living arrangements.

1 (5) Community integration expertise to assist consumers and
2 families in accessing integrated services and supports and improved
3 opportunities to participate in community life.

4 (6) Quality assurance expertise, to assist the regional center to
5 provide the necessary coordination and cooperation with the area
6 board in conducting quality-of-life assessments and coordinating
7 the regional center quality assurance efforts.

8 (7) Each regional center shall employ at least one consumer
9 advocate who is a person with developmental disabilities.

10 (8) Other staffing arrangements related to the delivery of
11 services that the department determines are necessary to ensure
12 maximum cost-effectiveness and to ensure that the service needs
13 of consumers and families are met.

14 (h) Any regional center proposing a staffing arrangement that
15 substantially deviates from the requirements of this section shall
16 request a waiver from the department. Prior to granting a waiver,
17 the department shall require a detailed staffing proposal, including,
18 but not limited to, how the proposed staffing arrangement will
19 benefit consumers and families served, and shall demonstrate clear
20 and convincing support for the proposed staffing arrangement from
21 constituencies served and impacted, that include, but are not limited
22 to, consumers, families, providers, advocates, and recognized labor
23 organizations. In addition, the regional center shall submit to the
24 department any written opposition to the proposal from
25 organizations or individuals, including, but not limited to,
26 consumers, families, providers, and advocates, including
27 recognized labor organizations. The department may grant waivers
28 to regional centers that sufficiently demonstrate that the proposed
29 staffing arrangement is in the best interest of consumers and
30 families served, complies with the requirements of this chapter,
31 and does not violate any contractual requirements. A waiver shall
32 be approved by the department for up to 12 months, at which time
33 a regional center may submit a new request pursuant to this
34 subdivision.

35 (i) The requirements of subdivisions (c), (f), and (h) shall not
36 apply when a regional center is required to develop an expenditure
37 plan pursuant to Section 4791, and when the expenditure plan
38 addresses the specific impact of the budget reduction on staffing
39 requirements and the expenditure plan is approved by the
40 department.

(j) (1) Any contract between the department and a regional center entered into on and after January 1, 2003, shall require that all employment contracts entered into with regional center staff or contractors be available to the public for review, upon request. For purposes of this subdivision, an employment contract or portion thereof may not be deemed confidential nor unavailable for public review.

(2) Notwithstanding paragraph (1), the social security number of the contracting party may not be disclosed.

(3) The term of the employment contract between the regional center and an employee or contractor shall not exceed the term of the state's contract with the regional center.

SEC. 3. Section 4643 of the Welfare and Institutions Code is amended to read:

4643. (a) If assessment is needed, ~~prior to July 1, 2008,~~ the assessment shall be performed within 120 days following initial intake. Assessment shall be performed as soon as possible and in no event more than 60 days following initial intake where any delay would expose the client to unnecessary risk to his or her health and safety or to significant further delay in mental or physical development, or the client would be at imminent risk of placement in a more restrictive environment. Assessment may include collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs and is conditional upon receipt of the release of information specified in subdivision (b). ~~On and after July 1, 2008, the assessment shall be performed within 60 days following intake and if unusual circumstances prevent the completion of assessment within 60 days following intake, this assessment period may be extended by one 30-day period with the advance written approval of the department.~~

(b) In determining if an individual meets the definition of developmental disability contained in subdivision (a) of Section 4512, the regional center may consider evaluations and tests, including, but not limited to, intelligence tests, adaptive functioning tests, neurological and neuropsychological tests, diagnostic tests performed by a physician, psychiatric tests, and other tests or evaluations that have been performed by, and are available from, other sources.

1 *SEC. 4. Section 4648.4 of the Welfare and Institutions Code*
2 *is amended to read:*

3 4648.4. (a) Notwithstanding any other provision of law or
4 regulation, commencing July 1, 2006, rates for services listed in
5 paragraphs (1), (2), with the exception of travel reimbursement,
6 (3) to (8), inclusive, (10), and (11) of subdivision (b), shall be
7 increased by 3 percent, subject to funds specifically appropriated
8 for this increase in the Budget Act of 2006. The increase shall be
9 applied as a percentage, and the percentage shall be the same for
10 all providers. Any subsequent change shall be governed by
11 subdivision (b).

12 (b) Notwithstanding any other provision of law or regulation,
13 except for subdivision (a), ~~during the 2007-08 fiscal year~~, no
14 regional center may pay any provider of the following services or
15 supports a rate that is greater than the rate that is in effect on or
16 after ~~July 1, 2007~~ June 30, 2008, unless the increase is required
17 by a contract between the regional center and the vendor that is in
18 effect on June 30, ~~2007~~ 2008, or the regional center demonstrates
19 that the approval is necessary to protect the consumer's health or
20 safety and the department has granted prior written authorization:

- 21 (1) Supported living services.
- 22 (2) Transportation, including travel reimbursement.
- 23 (3) Socialization training programs.
- 24 (4) Behavior intervention training.
- 25 (5) Community integration training programs.
- 26 (6) Community activities support services.
- 27 (7) Mobile day programs.
- 28 (8) Creative art programs.
- 29 (9) Supplemental day services program supports.
- 30 (10) Adaptive skills trainers.
- 31 (11) Independent living specialists.

32 *SEC. 5. Section 4681.3 of the Welfare and Institutions Code*
33 *is amended to read:*

34 4681.3. (a) Notwithstanding any other provision of this article,
35 for the 1996-97 fiscal year, the rate schedule authorized by the
36 department in operation June 30, 1996, shall be increased based
37 upon the amount appropriated in the Budget Act of 1996 for that
38 purpose. The increase shall be applied as a percentage, and the
39 percentage shall be the same for all providers.

(b) Notwithstanding any other provision of this article, for the 1997–98 fiscal year, the rate schedule authorized by the department in operation on June 30, 1997, shall be increased based upon the amount appropriated in the Budget Act of 1997 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(c) Notwithstanding any other provision of this article, for the 1998–99 fiscal year, the rate schedule authorized by the department in operation on June 30, 1998, shall be increased commencing July 1, 1998, based upon the amount appropriated in the Budget Act of 1998 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(d) Notwithstanding any other provision of this article, for the 1998–99 fiscal year, the rate schedule authorized by the department in operation on December 31, 1998, shall be increased January 1, 1999, based upon the cost-of-living adjustments in the Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled appropriated in the Budget Act of 1998 for that purpose. The increase shall be applied as a percentage and the percentage shall be the same for all providers.

(e) Notwithstanding any other provision of this article, for the 1999–2000 fiscal year, the rate schedule authorized by the department in operation on June 30, 1999, shall be increased July 1, 1999, based upon the amount appropriated in the Budget Act of 1999 for that purpose. The increase shall be applied as a percentage and the percentage shall be the same for all providers.

(f) In addition, commencing January 1, 2000, any funds available from cost-of-living adjustments in the Supplemental Security Income/State Supplementary Payment (SSI/SSP) for the 1999–2000 fiscal year shall be used to further increase the community care facility rate. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(g) Notwithstanding any other provision of law or regulation, for the 2006–07 fiscal year, the rate schedule in effect on June 30, 2006, shall be increased on July 1, 2006, by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage and the percentage shall be the same for all providers. Any subsequent increase shall be governed by ~~Section~~ *Sections 4681.5 and 4681.6*.

1 *SEC. 6. Section 4681.5 of the Welfare and Institutions Code*
2 *is amended to read:*

3 4681.5. Notwithstanding any other provision of law or
4 regulation, ~~during the 2007–08 fiscal year~~, no regional center may
5 approve any service level for a residential service provider, as
6 defined in Section 56005 of Title 17 of the California Code of
7 Regulations, if the approval would result in an increase in the rate
8 to be paid to the provider that is greater than the rate that is in
9 effect on ~~July 1, 2007~~ *June 30, 2008*, unless the regional center
10 demonstrates to the department that the approval is necessary to
11 protect the consumer’s health or safety and the department has
12 granted prior written authorization.

13 *SEC. 7. Section 4681.6 is added to the Welfare and Institutions*
14 *Code, to read:*

15 4681.6. Notwithstanding any other provision of law or
16 regulation, *commencing July 1, 2008:*

17 (a) *No regional center may pay an existing residential service*
18 *provider, for services where rates are determined through a*
19 *negotiation between the regional center and the provider, a rate*
20 *higher than the rate in effect on June 30, 2008, unless the increase*
21 *is required by a contract between the regional center and the*
22 *vendor that is in effect on June 30, 2008, or the regional center*
23 *demonstrates that the approval is necessary to protect the*
24 *consumer’s health or safety and the department has granted prior*
25 *written authorization.*

26 (b) *No regional center may negotiate a rate with a new*
27 *residential service provider, for services where rates are*
28 *determined through a negotiation between the regional center and*
29 *the provider, that is higher than the regional center’s median rate*
30 *for the same service code and unit of service, or the statewide*
31 *median rate for the same service code and unit of service,*
32 *whichever is lower. The unit of service designation must conform*
33 *with an existing regional center designation or, if none exists, a*
34 *designation used to calculate the statewide median rate for the*
35 *same service. The regional center shall annually certify to the*
36 *department its median rate for each negotiated rate service code,*
37 *by designated unit of service. This certification will be subject to*
38 *verification through the department’s biennial fiscal audit of the*
39 *regional center.*

1 (c) For purposes of this section, “residential service provider”
2 includes Adult Residential Facilities for Persons with Special
3 Health Care Needs, as described in Section 4684.50.

4 (d) This section shall not apply to those services for which rates
5 are determined by the State Department of Health Care Services,
6 or the State Department of Developmental Services, or are usual
7 and customary.

8 SEC. 8. Section 4689.8 is added to the Welfare and Institutions
9 Code, to read:

10 4689.8. Notwithstanding any other provision of law or
11 regulation, commencing July 1, 2008:

12 (a) No regional center may pay an existing supported living
13 service provider, for services where rates are determined through
14 a negotiation between the regional center and the provider, a rate
15 higher than the rate in effect on June 30, 2008, unless the increase
16 is required by a contract between the regional center and the
17 vendor that is in effect on June 30, 2008, or the regional center
18 demonstrates that the approval is necessary to protect the
19 consumer’s health or safety and the department has granted prior
20 written authorization.

21 (b) No regional center may negotiate a rate with a new
22 supported living service provider, for services where rates are
23 determined through a negotiation between the regional center and
24 the provider, that is higher than the regional center’s median rate
25 for the same service code and unit of service, or the statewide
26 median rate for the same service code and unit of service,
27 whichever is lower. The unit of service designation shall conform
28 with an existing regional center designation or, if none exists, a
29 designation used to calculate the statewide median rate for the
30 same service. The regional center shall annually certify to the
31 State Department of Developmental Services its median rate for
32 each negotiated rate service code, by designated unit of service.
33 This certification shall be subject to verification through the
34 department’s biennial fiscal audit of the regional center.

35 SEC. 9. Section 4691.6 of the Welfare and Institutions Code
36 is amended to read:

37 4691.6. (a) Notwithstanding any other provision of law or
38 regulation, commencing July 1, 2006, the community-based day
39 program, work activity program, and in-home respite service
40 agency rate schedules authorized by the department and in

1 operation June 30, 2006, shall be increased by 3 percent, subject
2 to funds specifically appropriated for this increase in the Budget
3 Act of 2006. The increase shall be applied as a percentage, and
4 the percentage shall be the same for all providers. Any subsequent
5 increase shall be governed by subdivisions (b), (c), (d), and (e)
6 *and Section 4691.9.*

7 (b) Notwithstanding any other provision of law or regulation,
8 ~~during the 2007-08 fiscal year,~~ the department may not establish
9 any permanent payment rate for a community-based day program
10 or in-home respite service agency provider that has a temporary
11 payment rate in effect on ~~July 1, 2007,~~ *June 30, 2008*, if the
12 permanent payment rate would be greater than the temporary
13 payment rate in effect on or after ~~July 1, 2007,~~ *June 30, 2008*,
14 unless the regional center demonstrates to the department that the
15 permanent payment rate is necessary to protect the consumers'
16 health or safety.

17 (c) Notwithstanding any other provision of law or regulation,
18 ~~during the 2007-08 fiscal year,~~ neither the department nor any
19 regional center may approve any program design modification or
20 revendorization for a community-based day program or in-home
21 respite service agency provider that would result in an increase in
22 the rate to be paid to the vendor from the rate that is in effect on
23 or after ~~July 1, 2007~~ *June 30, 2008*, unless the regional center
24 demonstrates that the program design modification or
25 revendorization is necessary to protect the consumers' health or
26 safety and the department has granted prior written authorization.

27 (d) Notwithstanding any other provision of law or regulation,
28 ~~during the 2007-08 fiscal year,~~ the department may not approve
29 an anticipated rate adjustment for a community-based day program
30 or in-home respite service agency provider that would result in an
31 increase in the rate to be paid to the vendor from the rate that is in
32 effect on or after ~~July 1, 2007~~ *June 30, 2008*, unless the regional
33 center demonstrates that the anticipated rate adjustment is necessary
34 to protect the consumers' health or safety.

35 (e) Notwithstanding any other provision of law or regulation,
36 ~~during the 2007-08 fiscal year,~~ the department may not approve
37 any rate adjustment for a work activity program that would result
38 in an increase in the rate to be paid to the vendor from the rate that
39 is in effect on or after ~~July 1, 2007~~ *June 30, 2008*, unless the
40 regional center demonstrates that the rate adjustment is necessary

1 to protect the consumers' health and safety and the department has
2 granted prior written authorization.

3 *SEC. 10. Section 4691.9 is added to the Welfare and Institutions*
4 *Code, to read:*

5 *4691.9. Notwithstanding any other provision of law or*
6 *regulation, commencing July 1, 2008:*

7 *(a) No regional center shall pay an existing service provider,*
8 *for services where rates are determined through a negotiation*
9 *between the regional center and the provider, a rate higher than*
10 *the rate in effect on June 30, 2008, unless the increase is required*
11 *by a contract between the regional center and the vendor that is*
12 *in effect on June 30, 2008, or the regional center demonstrates*
13 *that the approval is necessary to protect the consumer's health or*
14 *safety and the department has granted prior written authorization.*

15 *(b) No regional center may negotiate a rate with a new service*
16 *provider, for services where rates are determined through a*
17 *negotiation between the regional center and the provider, that is*
18 *higher than the regional center's median rate for the same service*
19 *code and unit of service, or the statewide median rate for the same*
20 *service code and unit of service, whichever is lower. The unit of*
21 *service designation must conform with an existing regional center*
22 *designation or, if none exists, a designation used to calculate the*
23 *statewide median rate for the same service. The regional center*
24 *shall annually certify to the State Department of Developmental*
25 *Services its median rate for each negotiated rate service code, by*
26 *designated unit of service. This certification will be subject to*
27 *verification through the department's biennial fiscal audit of the*
28 *regional center.*

29 *(c) This section shall not apply to those services for which rates*
30 *are determined by the State Department of Health Care Services,*
31 *or the State Department of Developmental Services, or are usual*
32 *and customary.*

33 *SEC. 11. Section 4781.6 of the Welfare and Institutions Code*
34 *is amended to read:*

35 *4781.6. (a) ~~For the 2007-08 fiscal year only, a~~ A regional*
36 *center shall not expend any purchase of service funds for the startup*
37 *of any new program unless the expenditure is necessary to protect*
38 *the consumer's health or safety or because of extraordinary*
39 *circumstances, and the department has granted prior written*
40 *authorization for the expenditures.*

(b) This section does not apply to the purchase of services funds allocated as part of the department's community placement plan process.

SEC. 12. Section 4783 of the Welfare and Institutions Code is amended to read:

4783. (a) (1) The Family Cost Participation Program is hereby created in the State Department of Developmental Services for the purpose of assessing a cost participation to parents, as defined in Section 50215 of Title 17 of the California Code of Regulations, who have a child to whom all of the following applies:

- (A) The child has a developmental disability.
- (B) The child is ~~three~~ zero years of age through 17 years of age.
- (C) The child lives in the parents' home.
- (D) The child receives services and supports purchased through the regional center.
- (E) The child is not eligible for Medi-Cal.

(2) Notwithstanding any other provision of law, a parent described in subdivision (a) shall participate in the Family Cost Participation Program established pursuant to this section.

(3) Application of this section to children zero through two years of age shall be contingent upon approval by the United States Department of Education.

(b) (1) The department shall develop and establish a Family Cost Participation Schedule that shall be used by regional centers to assess the parents' cost participation. The schedule shall consist of a sliding scale for families with an annual gross income not less than 400 percent of the federal poverty guideline, and be adjusted for the level of annual gross income and the number of persons living in the family home.

(2) The schedule established pursuant to this section shall be exempt from the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Family cost participation assessments shall only be applied to respite, day care, and camping services that are included in the child's individual program plan *or individual family service plan for children zero through two years of age.*

(d) If there is more than one minor child living in the parents' home and receiving services or supports paid for by the regional center, or living in a 24-hour out-of-home facility, including a

1 developmental center, the assessed amount shall be adjusted as
2 follows:

3 (1) A parent that meets the criteria specified in subdivision (b)
4 with two children shall be assessed at 75 percent of the respite,
5 day care, and camping services in each child's individual program
6 plan for each child living at home.

7 (2) A parent that meets the criteria specified in subdivision (b)
8 with three children shall be assessed at 50 percent of the respite,
9 day care, and camping services included in each child's individual
10 program plan for each child living at home.

11 (3) A parent that meets the criteria specified in subdivision (b)
12 with four children shall be assessed 25 percent of the respite, day
13 care, and camping services included in each child's individual
14 program plan for each child living at home.

15 (4) A parent that meets the criteria specified in subdivision (b)
16 with more than four children shall be exempt from participation
17 in the Family Cost Participation Program.

18 (e) For each child, the amount of cost participation shall be less
19 than the amount of the parental fee that the parent would pay if
20 the child lived in a 24-hour, out-of-home facility.

21 (f) Commencing January 1, 2005, each regional center shall be
22 responsible for administering the Family Cost Participation
23 Program.

24 (g) Family cost participation assessments or reassessments shall
25 be conducted as follows:

26 (1) (A) ~~By December 31, 2005, a~~ A regional center shall assess
27 the cost participation for all parents of current consumers who
28 meet the criteria specified in this section. A regional center shall
29 use the most recent individual program plan *or individual family*
30 *service plan* for this purpose.

31 (B) A regional center shall assess the cost participation for
32 parents of newly identified consumers at the time of the initial
33 individual program plan *or the individual family service plan*.

34 (C) Reassessments for cost participation shall be conducted as
35 part of the individual program plan *or individual family service*
36 *plan* review pursuant to subdivision (b) of Section 4646 *or*
37 *subdivision (f) of Section 95020 of the Government Code*.

38 (D) The parents are responsible for notifying the regional center
39 when a change in family income occurs that would result in a
40 change in the assessed amount of cost participation.

1 (2) Parents shall self-certify their gross annual income to the
2 regional center by providing copies of W-2 Wage Earners
3 Statements, payroll stubs, a copy of the prior year's state income
4 tax return, or other documents and proof of other income.

5 (3) A regional center shall notify parents of the parents' assessed
6 cost participation within 10 working days of receipt of the parents'
7 complete income documentation.

8 (4) Parents who have not provided copies of income
9 documentation pursuant to paragraph (2) shall be assessed the
10 maximum cost participation based on the highest income level
11 adjusted for family size until such time as the appropriate income
12 documentation is provided. Parents who subsequently provide
13 income documentation that results in a reduction in their cost
14 participation shall be reimbursed for the actual cost difference
15 incurred for services identified in the individual program plan for
16 respite, day care, and camping services, for 90 calendar days
17 preceding the reassessment. The actual cost difference is the
18 difference between the maximum cost participation originally
19 assessed and the reassessed amount using the parents' complete
20 income documentation, that is substantiated with receipts showing
21 that the services have been purchased by the parents.

22 (5) The executive director of the regional center may grant a
23 cost participation adjustment for parents who incur an unavoidable
24 and uninsured catastrophic loss with direct economic impact on
25 the family or who substantiate, with receipts, significant
26 unreimbursed medical costs associated with care for a child who
27 is a regional center consumer. A redetermination of the cost
28 participation adjustment shall be made at least annually.

29 (h) A provider of respite, day care, or camping services shall
30 not charge a rate for the parents' share of cost that is higher than
31 the rate paid by the regional center for its share of cost.

32 (i) The department shall develop, and regional centers shall use,
33 all forms and documents necessary to administer the program
34 established pursuant to this section. The forms and documents
35 shall be posted on the department's Web site. A regional center
36 shall provide appropriate materials to parents at the initial
37 individual program plan meeting and subsequent individual
38 program plan review meetings. These materials shall include a
39 description of the Family Cost Participation Program.

1 (j) The department shall include an audit of the Family Cost
2 Participation Program during its audit of a regional center.

3 (k) (1) *Parents of children ages three through 17 years of age*
4 may appeal an error in the amount of the parents' cost participation
5 to the executive director of the regional center within 30 days of
6 notification of the amount of the assessed cost participation. The
7 parents may appeal to the Director of Developmental Services, or
8 his or her designee, any decision by the executive director made
9 pursuant to this subdivision within 15 days of receipt of the written
10 decision of the executive director.

11 (2) *Parents of children ages three through 17 years of age* who
12 dispute the decision of the executive director pursuant to paragraph
13 (5) of subdivision (g) shall have a right to a fair hearing as
14 described in, and the regional center shall provide notice pursuant
15 to, Chapter 7 (commencing with Section 4700). This paragraph
16 shall become inoperative on July 1, 2006.

17 (3) On and after July 1, 2006, a parent described in paragraph
18 (2) shall have the right to appeal the decision of the executive
19 director to the Director of Developmental Services, or his or her
20 designee, within 15 days of receipt of the written decision of the
21 executive director.

22 (l) *For parents of children ages zero through two years of age,*
23 *the complaint, mediation, and due process procedures set forth in*
24 *Sections 52170 to 52174, inclusive, of Title 17 of the California*
25 *Code of Regulations shall be used to resolve disputes regarding*
26 *this section.*

27 ~~(t)~~

28 (m) The department may adopt emergency regulations to
29 implement this section. The adoption, amendment, repeal, or
30 readoption of a regulation authorized by this section is deemed to
31 be necessary for the immediate preservation of the public peace,
32 health and safety, or general welfare, for purposes of Sections
33 11346.1 and 11349.6 of the Government Code, and the department
34 is hereby exempted from the requirement that it describe specific
35 facts showing the need for immediate action. A certificate of
36 compliance for these implementing regulations shall be filed within
37 24 months following the adoption of the first emergency
38 regulations filed pursuant to this subdivision.

39 ~~(m)~~

(n) By April 1, 2005, and annually thereafter, the department shall report to the appropriate fiscal and policy committees of the Legislature on the status of the implementation of the Family Cost Participation Program established under this section. On and after April 1, 2006, the report shall contain all of the following:

(1) The annual total purchase of services savings attributable to the program per regional center.

(2) The annual costs to the department and each regional center to administer the program.

(3) The number of families assessed a cost participation per regional center.

(4) The number of cost participation adjustments granted pursuant to paragraph (5) of subdivision (g) per regional center.

(5) The number of appeals filed pursuant to subdivision (k) and the number of those appeals granted, modified, or denied.

~~(n) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 13. Section 14041.1 is added to the Welfare and Institutions Code, to read:

14041.1. (a) Notwithstanding any other provision of law, and to the extent not otherwise conflicting with federal law, the department may hold for a period of one month, or direct the medical fiscal intermediary for the Medi-Cal program to hold for a period of one month, payments to providers or their designated agents for health care services that are provided pursuant to this chapter, and payments to entities that contract with the department pursuant to this chapter, Chapter 8 (commencing with Section 14200) and Chapter 8.75 (commencing with Section 14590) for the delivery of health care services.

(b) The authority described in subdivision (a) shall be limited to payments for one month only, and only for a month ending prior to January 1, 2009.

SEC. 14. Section 14105.19 is added to the Welfare and Institutions Code, to read:

14105.19. (a) Notwithstanding any other provision of law, in order to implement changes in the level of funding for health care services, the director shall reduce provider payments as specified in this section.

1 (b) (1) Except as provided in subdivision (c), payments shall
2 be reduced by 10 percent for Medi-Cal fee-for-service benefits for
3 dates of service on and after July 1, 2008.

4 (2) Except as provided in subdivision (c), payments shall be
5 reduced by 10 percent for non-Medi-Cal programs described in
6 Article 6 (commencing with Section 124025) of Chapter 3 of Part
7 2 of Division 106 of the Health and Safety Code, and Section
8 14105.18, for dates of service on and after July 1, 2008.

9 (3) For managed health care plans that contract with the
10 department pursuant to this chapter, Chapter 8 (commencing with
11 Section 14200), and Chapter 8.75 (commencing with Section
12 14590), payments shall be reduced by the actuarial equivalent
13 amount of the payment reduction specified in this subdivision
14 pursuant to contract amendments or change orders effective on
15 July 1, 2008.

16 (c) The services listed in this subdivision shall be exempt from
17 the payment reductions specified in subdivision (b):

18 (1) Acute hospital inpatient services, except for payments to
19 hospitals not under contract with the State Department of Health
20 Care Services, as provided in Section 14166.245.

21 (2) Federally qualified health center services, including those
22 facilities deemed to have federally qualified health center status
23 pursuant to a waiver under subdivision (a) of Section 1315 of Title
24 42 of the United States Code.

25 (3) Rural health clinic services.

26 (4) All of the following facilities:

27 (A) A skilled nursing facility pursuant to subdivision (c) of
28 Section 1250 of the Health and Safety Code, except a skilled
29 nursing facility that is a distinct part of a general acute care
30 hospital. For purposes of this paragraph, "distinct part" has the
31 same meaning as defined in Section 72041 of Title 22 of the
32 California Code of Regulations.

33 (B) An intermediate care facility for the developmentally
34 disabled pursuant to subdivision (e), (g), or (h) of Section 1250 of
35 the Health and Safety Code, or a facility providing continuous
36 skilled nursing care to developmentally disabled individuals
37 pursuant to the pilot project established by Section 14495.10.

38 (C) A subacute care unit, as defined in Section 51215.5 of Title
39 22 of the California Code of Regulations.

1 (5) *Payments to facilities owned or operated by the State*
2 *Department of Mental Health or the State Department of*
3 *Developmental Services.*

4 (6) *Hospice.*

5 (7) *Contract services as designated by the director pursuant to*
6 *subdivision (e).*

7 (8) *Payments to providers to the extent that the payments are*
8 *funded by means of a certified public expenditure or an*
9 *intergovernmental transfer pursuant to Section 433.51 of Title 42*
10 *of the Code of Federal Regulations.*

11 (9) *Services pursuant to local assistance contracts and*
12 *interagency agreements to the extent the funding is not included*
13 *in the funds appropriated to the department in the annual Budget*
14 *Act.*

15 (10) *Payments to Medi-Cal managed care plans pursuant to*
16 *Section 4474.5 for services to consumers transitioning from*
17 *Agnews Developmental Center into Alameda, San Mateo, and*
18 *Santa Clara Counties pursuant to the Plan for the Closure of*
19 *Agnews Developmental Center.*

20 (11) *Breast and cervical cancer treatment provided pursuant*
21 *to Section 14007.71.*

22 (12) *The Family Planning, Access, Care, and Treatment (Family*
23 *PACT) Waiver Program pursuant to Section 14105.18.*

24 (d) *Subject to the exception for services listed in subdivision*
25 *(c), the payment reductions required by subdivision (b) shall apply*
26 *to the services rendered by any provider who may be authorized*
27 *to bill for the service, including, but not limited to, physicians,*
28 *podiatrists, nurse practitioners, certified nurse midwives, nurse*
29 *anesthetists, and organized outpatient clinics.*

30 (e) *Notwithstanding Chapter 3.5 (commencing with Section*
31 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
32 *the department may implement this section by means of a provider*
33 *bulletin, or similar instruction, without taking regulatory action.*

34 (f) *The reductions described in this section shall apply only to*
35 *payments for services when the General Fund share of the payment*
36 *is paid with funds directly appropriated to the department in the*
37 *annual Budget Act and shall not apply to payments for services*
38 *paid with funds appropriated to other departments or agencies.*

39 (g) *The department shall promptly seek any necessary federal*
40 *approvals for the implementation of this section.*

1 *SEC. 15. Section 14166.245 is added to the Welfare and*
2 *Institutions Code, to read:*

3 14166.245. (a) *The Legislature finds and declares that the*
4 *state faces a fiscal crisis that requires unprecedented measures to*
5 *be taken to reduce General Fund expenditures to avoid reducing*
6 *vital government services necessary for the protection of the health,*
7 *safety, and welfare of the citizens of the State of California.*

8 (b) *Notwithstanding any other provision of law, for acute care*
9 *hospitals not under contract with the State Department of Health*
10 *Care Services pursuant to Article 2.6 (commencing with Section*
11 *14081) of Chapter 7 of Part 3 of Division 9, the amounts paid as*
12 *interim payments for inpatient hospital services provided on and*
13 *after July 1, 2008, shall be reduced by 10 percent.*

14 (c) (1) *Notwithstanding any other provision of law, for acute*
15 *care hospitals not under contract with the State Department of*
16 *Health Care Services, the reimbursement amount for inpatient*
17 *services provided to Medi-Cal recipients for dates of service on*
18 *and after July 1, 2008, shall not exceed the amount determined*
19 *pursuant to paragraph (3).*

20 (2) *For purposes of this subdivision, the reimbursement for*
21 *inpatient services includes the amounts paid for all categories of*
22 *inpatient services allowable by Medi-Cal. The reimbursement*
23 *includes the amounts paid for routine services, together with all*
24 *related ancillary services.*

25 (3) *When calculating a hospital's cost report settlement for a*
26 *hospital's fiscal period that includes any dates of service on and*
27 *after July 1, 2008, the settlement for dates of service on and after*
28 *July 1, 2008, shall be limited to 90 percent of the hospital's audited*
29 *allowable cost per day for those services multiplied by the number*
30 *of Medi-Cal covered inpatient days in the hospital's fiscal year*
31 *on or after July 1, 2008.*

32 (d) *Hospitals that participate in the Selective Provider*
33 *Contracting Program pursuant to Article 2.6 (commencing with*
34 *Section 14081) and designated public hospitals under Section*
35 *14166.1, except Los Angeles County Martin Luther King,*
36 *Jr./Charles R. Drew Medical Center and Tuolumne General*
37 *Hospital, shall be exempt from the 10 percent reduction required*
38 *by this section.*

39 (e) *Notwithstanding the rulemaking provisions of Chapter 3.5*
40 *(commencing with Section 11340) of Part 1 of Division 3 of Title*

1 2 of the Government Code, the director may implement subdivision
2 (b) by means of a provider bulletin, or other similar instruction,
3 without taking regulatory action.

4 (f) The director shall promptly seek all necessary federal
5 approvals in order to implement this section, including necessary
6 amendments to the state plan.

7 SEC. 16. This act addresses the fiscal emergency declared by
8 the Governor by proclamation on January 10, 2008, pursuant to
9 subdivision (f) of Section 10 of Article IV of the California
10 Constitution.

11 SEC. 17. This act is an urgency statute necessary for the
12 immediate preservation of the public peace, health, or safety within
13 the meaning of Article IV of the Constitution and shall go into
14 immediate effect. The facts constituting the necessity are:

15 In order to make statutory changes needed to implement cost
16 containment measures affecting health services, at the earliest
17 possible time, it is necessary that this act take effect immediately.

18 ~~SECTION 1. It is the intent of the Legislature to make changes~~
19 ~~relating to the Budget Act of 2007.~~